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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,900	04/14/2004	Ronald C. Naddeo	102330-200	6113

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WIGGIN AND DANA LLP
ATTENTION: PATENT DOCKETING
ONE CENTURY TOWER, P.O. BOX 1832
NEW HAVEN, CT 06508-1832

EXAMINER	
CORDRAY, DENNIS R	
ART UNIT	PAPER NUMBER
1731	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/21/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/823,900

Applicant(s)

NADDEO, RONALD C.

Examiner

Dennis Cordray

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 14-18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement filed 8/9/2004 fails to comply with 37 CFR 1.98(a)(1), which requires the following: (1) a list of all patents, publications, applications, or other information submitted for consideration by the Office; (2) U.S. patents and U.S. patent application publications listed in a section separately from citations of other documents; (3) the application number of the application in which the information disclosure statement is being submitted on each page of the list; (4) a column that provides a blank space next to each document to be considered, for the examiner's initials; and (5) a heading that clearly indicates that the list is an information disclosure statement. The information disclosure statement has been placed in the application file, but the information referred to therein has not been considered.

Claim Objections

2. The amended claims carry a reference at the top of the pages to application No. 10/078095, which is the parent application. Correction of the reference to the instant application is requested.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 14-16 are rejected under 35 U.S.C. 102(b) as anticipated by Sumner et al (3246997).

Sumner et al discloses a printing emulsion (composition) comprising 150 parts sodium sulfoxylate formaldehyde and 60 parts sugar, 54 parts of an aqueous composition and 336 parts water along with other ingredients (col 6, lines 33-50, Example 2).

Note that the preamble of Claim 14, which recites an intended use, does not limit the structure of the composition as claimed, thus carries no patentable weight. Note also that the use of "comprising" in the claim language allows for additional ingredients in the composition. The elements of the composition as claimed are disclosed by Sumner et al.

4. Claims 14-18 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Kritchevsky et al (1810665).

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Kritchevsky et al discloses a composition of matter for use as a color remover (bleach solution) for dyed fabrics (p 1, lines 1-11). The composition comprises a hydrosulfite which, in some embodiments, is sodium sulfoxylate formaldehyde, also known as Rongalite, an oily water-resistant substance such as soap or sulfonated soap, and other substances such as solvents, assistants, penetrators and fillers (p 1, lines 81 to p 2, line 21; p 2, lines 27-32, 53-62, 88-92). An example of an additional assistant material is a sugar (p 2, lines 102-103). When used, the composition is dissolved in water to liberate the hydrosulfite and thus form the aqueous reductive bleach solution (p 2, lines 55-62).

The sugar will also serve as an initiator because, where the claimed and prior art apparatus or product are identical or substantially identical in structure or composition, a *prima facie* case of either anticipation or obviousness has been established. *In re Best*, 562 F.2d 1252, 1255, 195 USPQ 430, 433 (CCPA 1977). In other words, when the structure recited in the reference is substantially identical to that of the claims, the claimed properties or functions are presumed to be inherent.

Kritchevsky et al does not disclose the relative amount of sugar to hydrosulfite. However, it is considered by the Examiner to have been obvious to and within the capability of one of ordinary skill in the art to determine by routine experimentation the amount of sugar versus bleaching reagent needed to be within the claimed composition range.

Alternatively, as indicated in one example, the additional material a solid acid-reacting substance like sodium bisulfite, which is added in the ratio of 30 parts

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hydrosulfite to 40 parts bisulfite (p 2, lines 120-122), which is within the claimed composition range. In solution, the bisulfite reacts with and activates the Rongalite (acts as an initiator) (p 2, lines 126-130).

Kritchevsky et al does not disclose a second reductive bleaching agent.

Kritchevsky et al does disclose both sodium hydrosulfite (p 1, lines 16-19) and sodium sulfoxylate formaldehyde as usable for bleaching. "It is prima facie obvious to combine two compositions, each of which is taught by the prior art to be useful for the same purpose, in order to form a third composition to be used for the very same purpose...

[T]he idea of combining them flows logically from their having been individually taught in the prior art." In re Kerkhoven, 626 F.2d 846, 850, 205 USPQ 1069, 1072 (CCPA 1980).

It would thus have been obvious to one of ordinary skill in the art to combine sodium hydrosulfite and sodium sulfoxylate formaldehyde in any ratio in the composition of Kritchevsky et al with a reasonable expectation of success.

5. Claims 14-18 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Mercade (3301695).

Mercade discloses a bleaching composition comprising a hydrosulfurous compound, such as sodium formaldehyde sulfoxylate (col 1, lines 21-24; col 3, lines 48-56). The compound is used to bleach an aqueous pulp of clay, thus is present in an aqueous composition (col 1, lines 21-24). The slurry can be flocced with talc (col 3, lines 57-59), which can also serve as an initiator for reasons given previously.

Mercade does not disclose the ratio of talc to sodium formaldehyde sulfoxylate or that a second reductive bleaching agent is present in the composition.

Mercade also discloses sodium hydrosulfite as a usable bleaching reagent (col 3, lines 48-50). For reasons given previously, it would have been obvious to one of ordinary skill in the art to combine sodium hydrosulfite and sodium formaldehyde sulfoxylate in any ratio in the composition of Mercade with a reasonable expectation of success. It is also considered by the Examiner to have been obvious to and within the capability of one of ordinary skill in the art to determine by routine experimentation the amount of talc versus bleaching reagent needed to be within the claimed composition range.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis Cordray whose telephone number is 571-272-8244. The examiner can normally be reached on M - F, 7:30 -4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on 571-272-1189. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



DRC



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